

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DE'SHNAI DELONDA DENNIS
and GREGORY BERNARD DENNIS, II, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LINDA MARIE LADACH,

Respondent-Appellant.

UNPUBLISHED

February 1, 2007

No. 271323

Wayne Circuit Court

Family Division

LC No. 01-397541-NA

Before: Borrello, P.J., and Jansen and Cooper, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j).¹ We affirm. This appeal is being decided without oral argument. MCR 7.214(E).

To terminate parental rights, a trial court must find that at least one of the statutory grounds contained in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). Once this has occurred, the trial court must terminate parental rights unless it finds that termination is clearly contrary to the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). We review the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Trejo*, *supra* at 356-357.

At the time the petition was filed in this case, the evidence showed that respondent was neglectful of her minor children and that respondent's home was not suitable for raising children. Further, the evidence showed that respondent had not visited the children for quite some time and that the minor children had an unhealthy preoccupation with topics of a sexual nature. In

¹ Although respondent acknowledges that her parental rights were terminated pursuant to all four statutory subsections, she does not address in her brief on appeal the trial court's findings with respect to MCL 712A.19b(3)(c)(ii) and (j). Accordingly, appellate review of the trial court's findings under (c)(ii) and (j) is precluded.

addition, although respondent had completed a parenting class, the evidence showed that respondent had not benefited from the class. We find no clear error in the trial court's determination that at least one statutory ground for termination was established by clear and convincing evidence. For the same reasons, we find no error in the trial court's finding that termination was not clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 354.

Respondent raises two specific arguments on appeal. She argues that (1) petitioner failed to make reasonable efforts toward her reunification with the children, and (2) the trial court deprived her of her due process rights by refusing to allow her therapist to testify. This Court addressed the same arguments in respondent's previous appeal of the termination of her parental rights to two other children. See *In re Bell*, unpublished opinion per curiam of the Court of Appeals, issued October 3, 2006 (Docket No. 267074). There, we found that both arguments lacked merit. The same conclusion follows in the instant case.

With respect to respondent's reasonable efforts argument, respondent failed to raise this argument below. Thus, respondent failed to preserve this issue for appellate review. See *In re Hildebrant*, 216 Mich App 384, 389; 548 NW2d 715 (1996). We review unpreserved claims for outcome-determinative plain error. *Id.*

In general, when a child is removed from a parent's custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan. *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005). Under MCL 712A.18f(4), the court must, in any order of disposition, consider the case plan and determine whether reasonable efforts had been made to return the children to the parent's home and to rectify the conditions leading to the court's temporary custody of the children. Here, petitioner adopted a service plan and referred respondent to services. Accordingly, the trial court properly concluded that petitioner had made reasonable efforts toward reuniting respondent with the children. The fact that respondent failed to comply with or benefit from the offered services does not constitute a failure by petitioner to make reasonable efforts.

Respondent also contends that the trial court erred by refusing to allow her therapist to testify, either by speakerphone or by adjourning the trial to allow in-person testimony. A trial court's rulings on motions for adjournment or continuances to produce a witness are reviewed for an abuse of discretion. MCR 3.923(G); *In re Jackson*, *supra* at 28. However, respondent's due-process argument was not raised below. Therefore the due-process component of this argument is unpreserved, and our review of the constitutional issue is limited to outcome-determinative plain error. *In re Hildebrant*, *supra* at 389.

Under MCR 3.923(G), the court may grant an adjournment in a child protective hearing only for good cause and after taking into consideration the best interests of the child. Here, the court denied the request to allow respondent's therapist to testify by speakerphone or after an adjournment or continuance, reasoning that respondent had adequate opportunity to subpoena the witness, that trial was already in its second day, and that the court did not wish to delay the proceedings any further. Moreover, respondent never identified the content of the therapist's proposed testimony. We conclude that the trial court did not abuse its discretion in denying respondent's request for an adjournment or continuance to allow the therapist's testimony.

In addition, respondent failed to demonstrate how the therapist's testimony would have altered the result of the proceedings, and there is no evidence before us to suggest that the therapist's testimony would have influenced the outcome reached by the trial court in this case. Accordingly, respondent has failed to demonstrate that the trial court's refusal to admit the therapist's testimony constituted plain error that was decisive to the outcome. *In re Hildebrant*, *supra* at 389.

Affirmed.

/s/ Stephen L. Borrello

/s/ Kathleen Jansen

/s/ Jessica R. Cooper